IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23192 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NOORUDDIN @ NURIO KAMRUDDIN SHEIKH - Petitioner(s)
Versus
COMMISSIONER OF POLICE & 2 - Respondent(s)

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Appearance :
MS BANNA DATTA for Petitioner.
RULE SERVED BY DS for Respondent(s) : 1 - 2.
MR NG DOHIL, ASST. GOVERNMENT PLEADER for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 13/06/2006

ORAL JUDGMENT

By filing this petition, the petitioner, Nasir Kamruddin Sheikh has challenged detention order dated 8.11.2005 by which his brother, Nooruddin @ Nurio

Kamruddin Sheikh is detained as a bootlegger under The Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as PASA Act].

In the grounds of detention there is a reference of three pending criminal cases against the petitioner under the Bombay Prohibition Act for dealing with the country liquor. The detaining authority, after subjectively satisfying, has detained the petitioner by way of preventive detention.

Learned advocate for the petitioner submitted that except three pending criminal cases, there is no other statement of any independent witness for coming to a conclusion that the activities of the petitioner is prejudicial to public order or even tempo of public is disturbed by the said activities. It is submitted that at the most it can be said that the petitioner has violated law and order, and not public order. It is further submitted that the petitioner was already in custody in connection with case No.3 mentioned in the grounds of detention, and the detaining authority has committed a mistake in coming to a conclusion that the detenu is likely to be released on bail, without there being any material.

It is not in dispute that except three pending criminal cases, there is nothing on the record to suggest that the activities of the petitioner prejudicially affect public health or that by the said activities, the even tempo of public is

disturbed. In that view of the matter, the criminal cases registered against the petitioner can be said to be a violation of law and order situation, but it cannot be said that public order is disturbed.

In the result, the petition is allowed. Order of detention passed against the detenu dated 08.11.2005 is quashed and set aside. The detenu, Nooruddin @ Nurio Kamruddin Sheikh is ordered to be released forthwith unless he is required in connection with any other offence. Rule is made absolute, with no order as to costs.

[P. B. MAJMUDAR, J.]

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